

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELIJAH LEE MILLER,

Plaintiff,

v.

C. PARK, et al.,

Defendants.

No. 2:22-cv-01570-EFB (PC)

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On December 12, 2022, the court screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A. ECF No. 6. The court dismissed the complaint, explained the deficiencies therein, and granted plaintiff thirty days in which to file an amended complaint to cure the deficiencies. *Id.* The screening order warned plaintiff that failure to comply would result in a recommendation that this action be dismissed. *Id.* The time for filing an amended complaint has now passed and plaintiff has failed to file an amended complaint or otherwise respond to the court's order. Thus, it appears that plaintiff is unable or unwilling to cure the defects in the complaint.

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1 Accordingly, it is ORDERED that the Clerk of the Court randomly assign a United States
2 District Judge to this action.

3 Further, it is RECOMMENDED that this action be dismissed without prejudice for the
4 reasons set forth in the December 12, 2022 screening order (ECF No. 6).

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
7 after being served with these findings and recommendations, any party may file written
8 objections with the court and serve a copy on all parties. Such a document should be captioned
9 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
10 objections shall be served and filed within fourteen days after service of the objections. The
11 parties are advised that failure to file objections within the specified time may waive the right to
12 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
13 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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15 Dated: January 25, 2023.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE